

REMARKS

The application has been amended and is believed to be in condition for allowance.

Claims 11-17 remain in this application.

Claims 12 and 14 are amended. The amendments find support in the specification and the drawing figures as originally filed (e.g., page 3, lines 19-21; page 4, lines 31-33; Figures 1-3), and do not introduce new matter.

The Official Action rejected claims 11-17 under 35 USC 103(a) as being unpatentable over Webb et al. (US 6,629,533; "WEBB") in view of Hill et al. (US 2003/0018291; "HILL").

As to claim 11, it is respectfully submitted that neither WEBB nor HILL, individually or in combination, teach or suggest a plug for the meatus of a lacrimal canaliculus having an elliptical collar with a major axis, provided at one end of an elongate body wherein the collar is substantially perpendicular to a longitudinal axis of the elongate body.

The Official Action on page 2 states that WEBB discloses an elongate body 512 with a longitudinal axis, and an elliptical collar 518/538 perpendicular to the elongate body, wherein the elongate body is attached of the collar at one end portion, referencing Figures 6a and 6b of WEBB.

Respectfully, this is not accurate. The collar 518 identified by the Official Action is nowhere in WEBB's specification or drawing figures disclosed to be elliptical with

a major axis. Further, anchoring arm 538, extending at an angle from the lower shaft 512 or tip 532 of the plug upward and outward (column 5, lines 65-67), is non-elliptical (see Figure 6b).

Contrary to the invention recited, each of the embodiments of WEBB are illustrated as having circular collars (see Figures 2a, 3a, 4a, 5a). No major axis is disclosed in either of the specification or the drawing figures, where a major axis is known as "the axis of an ellipse that passes through the two foci," (major axis. Dictionary.com. *Dictionary.com Unabridged* (v 1.1). Random House, Inc.

[http://dictionary.reference.com/browse/major\\_axis](http://dictionary.reference.com/browse/major_axis) (accessed: September 30, 2008)) and "[the] longer of the two lines about which an ellipse is symmetrical; the axis that passes through both focuses of an ellipse," (major axis. Dictionary.com. *The American Heritage® Dictionary of the English Language, Fourth Edition.* Houghton Mifflin Company, 2004. [http://dictionary.reference.com/browse/major\\_axis](http://dictionary.reference.com/browse/major_axis) (accessed: September 30, 2008)). WEBB fails to teach or suggest, in any of the specification or the drawing figures, a collar having either an elliptical collar or a major axis, as required by claim 11.

It is further respectfully submitted that neither WEBB nor HILL, individually or in combination, teach or suggest two branches elastically connected to said first portion of an

elongate body to diverge elastically in a plane including the major axis of the elliptical collar, as required by claim 11.

The Official Action acknowledges that WEBB fails to disclose a second end of the elongate body with two branches that extend away from the collar wherein the branches are elastically connected to the elongate body. The Official Action offers HILL as teaching branches diverging elastically from one another, and concludes that one of skill would have found it obvious at the time of invention to this teaching with WEBB. This combination, however, does not lead to the present invention as claimed.

On the contrary, HILL teaches plural arms 22 extending from the rear end 14 of tube 10 (paragraph [0029]), none of which diverge in a plane including a major axis of an elliptical collar. At best, only one of HILL's plural arms 22 exist in any single plane of a central axis of the cylindrical stem 20 (paragraph [0027]). No combination of WEBB with HILL teaches the structure recited in claim 11 wherein two branches connected to an elongate body diverge elastically in a plane including the major axis of an elliptical collar.

It is therefore respectfully submitted that neither WEBB nor HILL, individually or in combination, teach or suggest all the features recited in claim 11. It is further respectfully submitted that one of skill would fail to be motivated to combine the references, as HILL is directed toward the anatomical issues of the ear and disregards the specific anatomical shape of the

lachrymal channels, acting as an umbrella without appropriate angular positions around the tube axis.

For all the foregoing, it is respectfully submitted that claim 11 is novel and non-obvious over WEBB and HILL. It is also respectfully submitted that claims depending from claim 11 are patentable at least for depending from a patentable claim.

Reconsideration and withdrawal of the rejection are respectfully requested.

As to claim 14, it is respectfully submitted that neither WEBB nor HILL, individually or in combination, teach or suggest two branches diverging elastically, each branch from the other branch, in a plane including a longitudinal axis of an elongate body and the major axis of the elliptical cross-section of said elongate body, as required by claim 14.

As stated above as to claim 11, HILL teaches plural arms 22 extending from the rear end 14 of tube 10 (paragraph [0029]), none of which diverge in a plane including a major axis of an elliptical elongate body. At best, only one of the plural arms 22 exist in any single plane of a central axis of the cylindrical stem 20 (paragraph [0027]). No combination of WEBB with HILL teaches the structure recited in claim 14 wherein two branches connected to an elongate body diverge elastically in a plane including the major axis of an elliptical elongate body.

It is also respectfully submitted that neither WEBB nor HILL, individually or in combination, teach or suggest an

elliptical elongate body extending along a longitudinal axis, an elliptical cross-section perpendicular to the longitudinal axis having a major axis, as recited by amended claim 14 (see also, dependent claim 12).

On the contrary, WEBB's Figure 6b teaches a cross-section of the plug taken across the line 6b-6b in Figure 6a (column 3, lines 65-67). The plane of cross-section is non-perpendicular to the longitudinal axis of the elongate body 512 of Figure 6a; thus the cross-sectional image of the round elongate body 512 in Figure 6b appears elliptical. There is no teaching or suggestion, however, in any of Figures 6a, 6b, or 7 that elongate body 512 itself is elliptical in a cross-section perpendicular to a longitudinal axis of the body as required by amended claim 14. Nor is there any teaching or suggestion in Figures 2a, 3a, 4a, 5a of an elliptical elongate body, or of a major axis.

Accordingly, it is respectfully submitted that amended claim 14 is patentable over WEBB in view of HILL. It is further respectfully submitted that claims depending from claim 14 are patentable at least for depending from a patentable claim, and that dependent claim 12 is patentable in its own right for the reasons set forth as to claim 14 with regard to an elliptical first portion.

Reconsideration and allowance of all the claims are respectfully requested.

From the foregoing, it will be apparent that applicants have fully responded to the June 4, 2008 Official Action and that the claims as presented are patentable. In view of this, applicants respectfully request reconsideration of the claims, as presented, and their early passage to issue.

In order to expedite the prosecution of this case, it is requested that the Examiner telephone the attorney for applicants at the number set forth below if the Examiner is of the opinion that further discussion of this case would be helpful.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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